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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH DEANDREA SPILLERS,

Defendant and Appellant.

C086696

(Super. Ct. No. 17FE006350)

A jury convicted defendant Joseph Deandrea Spillers of robbery, carjacking, unlawfully driving or taking a vehicle, receiving a stolen vehicle, theft by false pretenses, domestic violence with a prior domestic violence conviction, and misdemeanor possession of heroin. The trial court sentenced him to 12 years 4 months in state prison.

Defendant now contends there is insufficient evidence to support the carjacking conviction. Finding no merit to the contention, we will affirm the judgment.

BACKGROUND

While the victim and defendant were in a relationship in 2015 and 2016, defendant beat her many times and threatened to destroy her property.

In September 2016, the victim would drive her mother's BMW X5 and would park it in front of her apartment. Defendant was not allowed to use the car and did not have a key to it, and when he asked the victim to allow him to drive the car, she declined, making defendant angry. One day, after the victim drove and parked the car and returned to her apartment, she heard the blinds of an upstairs window fall. The victim saw the blinds on the ground and saw defendant standing three feet from the open window.

Defendant and the victim both looked at her purse, where the car keys were visible. The victim reached for the purse, but defendant struck her hand with a BB gun. Defendant ran off with her purse and the car keys, jumped in the car, and took off, screaming something like, "that's what you get." The victim believed defendant returned the car to her mother's house a week or two after taking it. It is unclear how long it took the victim to inform her mother that defendant took the car, but defendant returned the car to the victim's mother a day after the victim told her mother that defendant took it.

Months later, in February 2017, defendant texted the victim that he was in her apartment and would break everything if she did not come there. The victim drove to her apartment and saw that her bedroom window was open. Seeking to avoid defendant, the victim kept driving, but defendant caught up with her at a red light and got into her car. Defendant hit the victim in the face with a water bottle. When the victim got out of the car, defendant moved to the driver's seat and drove off. The victim went to her apartment and found that everything within had been destroyed.

Defendant used Craigslist to trade the BMW for a Cadillac. The record also contains evidence of additional conduct by defendant not relevant to his contention on appeal, including possession of heroin.

Testifying on his own behalf, defendant said the victim would let him drive the BMW and gave him a key to her apartment. One day they got into an argument and defendant asked her for a ride home. The victim refused, which caused defendant to get upset, grab her purse, and walk to the car where he waited for the victim to give him a

ride. After waiting 10 minutes, defendant drove away. He did not intend to steal the car when he drove off.

Regarding the February 2017 incident, defendant said he went to the victim's apartment to eat. When he saw the victim's car from the living room window, he walked up to it and got into the passenger seat as it was stopped at a red light. Defendant and the victim started to argue, and defendant threw water from a water bottle on her. He did not remember whether he hit the victim in the head with the water bottle. After the victim got out of the car, defendant moved to the driver's seat and drove off. He traded the BMW for a Cadillac, but according to defendant, the victim was with him when he made the trade. She later told defendant her mother wanted the car back.

The jury convicted defendant of robbery (Pen. Code, § 211),¹ carjacking (§ 215, subd. (a)), three counts of felony unlawfully driving or taking a vehicle (Veh. Code, § 10851, subd. (a)), two counts of receiving a stolen vehicle (§ 496d, subd. (a)), theft by false pretenses (§ 532, subd. (a)), domestic violence with a prior domestic violence conviction (§ 273.5, subds. (a), (f)(1)), and possession of heroin (Health & Saf. Code, § 11350, subd. (a)), a misdemeanor. The trial court imposed a 12-year 4-month state prison term.

DISCUSSION

Defendant contends there is insufficient evidence to support the carjacking conviction. We disagree.

In determining the sufficiency of the evidence, we ask whether “ ‘after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ ” (*People v. Hatch* (2000) 22 Cal.4th 260, 272, italics omitted.) We resolve neither credibility issues

¹ Undesignated statutory references are to the Penal Code.

nor evidentiary conflicts; we look for substantial evidence. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) “Moreover, unless the testimony is physically impossible or inherently improbable, testimony of a single witness is sufficient to support a conviction. [Citation.]” (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) “ ‘ ‘ ‘If the circumstances reasonably justify the trier of fact’s findings, the opinion of the reviewing court that the circumstances might also be reasonably reconciled with a contrary finding does not warrant a reversal of the judgment.’ ” ’ [Citation.]” (*People v. Casares* (2016) 62 Cal.4th 808, 823-824.) Thus, reversal is not warranted unless there is no hypothesis on which there exists substantial evidence to support the conviction. (*People v. Bolin* (1998) 18 Cal.4th 297, 331.)

“A conviction for carjacking requires proof that (1) the defendant took a vehicle that was not his or hers (2) from the immediate presence of a person who possessed the vehicle or was a passenger in the vehicle (3) against that person’s will (4) by using force or fear and (5) with the intent of temporarily or permanently depriving the person of possession of the vehicle. [Citations.]” (*People v. Magallanes* (2009) 173 Cal.App.4th 529, 534.)

Defendant's carjacking conviction is based on the September 29, 2016 incident in which he entered the victim's apartment through the window, hit her in the hand with a BB gun, took her purse and keys, and drove off with the BMW. Defendant claims he occasionally drove the car and there was conflicting evidence as to whether he was allowed to drive it by himself. He argues he could have reasonably believed there was an understanding that he could drive the car, and he points to his testimony that he waited 10 minutes for the victim before he drove off, and he eventually returned the car to the victim’s mother. Under the circumstances, he claims the evidence does not support a finding that he intended to deprive the victim of possession of the vehicle.

But defendant is focusing only on his version of events. The victim testified that although she did not let defendant drive the car, he struck her with a BB gun, took her

purse and keys, and drove off in the car, returning it a week later. The victim's testimony, which appears to have been credited by the jury, is sufficient to establish defendant's intent to deprive the victim of possession of the vehicle, at least temporarily.

Defendant essentially asks us to credit his testimony over the victim's testimony, but we will not usurp the jury's function. Substantial evidence supports the carjacking conviction.

DISPOSITION

The judgment is affirmed.

/S/
MAURO, J.

We concur:

/S/
BLEASE, Acting P. J.

/S/
MURRAY, J.